



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (BA) NO. 794 OF 2024

Shubham Arun Kokas Vs State of Maharashtra

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. C.B. Barve, counsel for the applicant.

Ms. T.H. Udeshi, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 03/10/2024.

1. The applicant came to be arrested on 12/01/2023 in connection with Crime No. 35/2023 registered with Police Station Ajni, Nagpur for the offences punishable under Sections 302, 143, 145, 147, 148, 323, 506, 506(2), read with Section 149 of the Indian Penal Code, 1860 and Section 4 and 25 of the Arms Act, 1959.

2. The crime is registered against the present applicant and the other co-accused on the basis of a report lodged by one Sarita Raju Khobragade, who alleged that she was having a love affair with deceased Vicky Chandel for the last 2 years. The said Vicky Chandel was in jail for the offence of murder. On 26/12/2022, she received a phone call from the deceased, who called her to meet him. On 11/01/2023, at about 08.00 p.m., she went along with her friend to meet the deceased at Panstall near Narendra Nagar ground. At the said place, the deceased asked Rs.100/- from her to buy cigarettes. She handed over the amount to the deceased, who went to Panstall to have cigarettes. The said Panstall

was near a public toilet, at that time, two other persons started abusing and assaulting the deceased. The deceased failed on the ground. Thereafter, co-accused Rakesh Pali and other two to three persons arrived there, and they all assaulted the deceased. In the same incident, the present applicant was also present, and she has also sustained the injuries on her back due to the blow of the seizure. In the said incident, the death of deceased Vicky was caused by the assault. On the basis of said report, police have registered the crime against the present applicants.

3. Heard learned counsel for the applicant. As far as the statement of the informant is concerned, it reveals the role of the present applicant, which is attributed to the fact that he has assaulted the deceased by means of Axe. In a subsequent statement also, the role of the present applicant is specifically mentioned that he has assaulted the deceased.

4. Learned counsel for the applicant submitted that the three statements are inconsistent, as three different weapons are attributed to the present applicant. He submitted that now the investigation is completed, the informant is an interested witness, and she has exaggerated the version. He submitted that now, considering the investigation is completed and charge-sheet is filed, further incarceration of the applicant is not required and he be released on bail.

5. The learned APP strongly opposed the said application on the ground that not only the statement of the informant but the CCTV footage and recovery of the weapon

at the instance of the present applicant sufficiently show his involvement in the alleged offence. She submitted that while considering the bail application of the co-accused, this Court has considered the role attributed to the present applicant, which is a prime role. Considering the gravity of the offence and the role played by the present applicant, who caused the death of the deceased, the application deserves to be rejected.

6. After hearing learned counsel for the applicant and learned APP for the state, perused the investigation papers from which it reveals that there was a love affair between the deceased and the informant. She is the eye witness of the incident. As far as the role of the present applicant is concerned, her specific statement shows that the present applicant has assaulted the deceased by means of Axe, subsequently, her two other statements are recorded. As far as the assault by the present applicant is concerned, her statement is consistent to the effect that he has assaulted the deceased by means of weapon. The CCTV footage panchanama also shows that the present applicant and one Rajesh Pali were seen assaulting the deceased, and thereafter two to three persons were also seen assaulting the deceased. Thus, considering the material collected during the investigation and the P.M. Report, which shows that the injuries are found on the vital part of the body and the death of the deceased is caused due to the head injury. The head injury is attributed to the present applicant. Considering the material collected during the investigation, a prima facie

case is made out. The gravity of the offence is also seen from the material which is collected during the investigation, which shows that the deceased was eliminated by the present applicant and other co-accused in furtherance of their common object.

7. In view of the above facts and circumstances, the application deserves to be rejected. Accordingly, I proceed to pass the following order:

The criminal application is **rejected** accordingly.

[URMILA JOSHI-PHALKE, J.]